

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the matter of	)
	)
Joint Application by BellSouth Corporation,	)
BellSouth Telecommunications Inc., and	)
BellSouth Long Distance, Inc. for Provision	)
of In-Region, InterLATA Services	)
In Georgia and Louisiana	)
	)

CC Docket No. 01-277

**AFFIDAVIT OF JOHN D. McLAUGHLIN, JR.**

**State of Georgia**     )  
                                  )  
**County of Fulton**    )

John D. McLaughlin, Jr., being of lawful age and duly sworn, hereby  
states as follows:

1. My business address is 1755 North Brown Road, Lawrenceville, Georgia. I am the Director of State Government Affairs for KMC Telecom, and as such am responsible for managing KMC Telecom's state-level regulatory and legislative obligations throughout an eleven state region encompassing Georgia, Florida, Alabama, Mississippi, Louisiana, South Carolina, North Carolina, Tennessee, Kentucky, Maryland and Virginia.

2. KMC Telecom (KMC) is a facilities-based Competitive Local Exchange Carrier ("CLEC") competing in Georgia, Louisiana, and in many other states across the country. KMC and its affiliates are building switched, high-speed, high-capacity advanced fiber optic networks to provide various services to business customers, including local and long distance voice and

data services. While KMC invests millions of dollars in each of the primarily tier III cities in which it competes, we rely upon the ILECs to provide the all important last mile of connectivity to most of our customer locations.

3. I have been the Director of State Regulatory Affairs for KMC Telecom since May, 2000. Prior to joining KMC, I spent thirteen (13) years with the Georgia Public Service Commission ("PSC"). In my most recent assignment with the Georgia PSC, I served as Principal Public Utilities Engineer-Telecommunications. In that position, I advised the Commissioners on major regulatory cases such as BellSouth's 271 applications, arbitration of Interconnection Agreements, and unbundled network element ("UNE") costs. I also established performance standard measures for the processing of CLEC orders and managed the process for reviewing and approving negotiated Interconnection Agreements. I have a Bachelor of Science degree in Electrical Engineering from the University of Tennessee.

4. KMC's ability to compete in Georgia and Louisiana has been severely hampered by BellSouth's poor performance and unresponsiveness. The data that BellSouth provides through its data reporting mechanism indicates that BellSouth is not in compliance with the section 271 checklist. BellSouth provides KMC with substandard performance in the areas most vital to competition: loop provisioning and directory listings.

#### **BELLSOUTH'S LOOP PERFORMANCE PREVENTS A FINDING OF COMPLIANCE WITH CHECKLIST ITEM IV**

5. Based on our real-world experience, it appears that BellSouth does not have proper procedures for performing loop hot cuts with number portability since successful hot cuts

result only from a tremendous amount of hand-holding by KMC in the three or four days preceding the cut-over. It is possible, however, that the BellSouth technicians are simply not following otherwise adequate procedures. In either event, the effect of BellSouth's poor performance is the same – an end user that is unsatisfied with KMC, and with the efficacy of local competition in general.

6. In performing loop hot cuts, BellSouth fails to meet its obligation to perform the time specific hot cuts for which KMC contracts. In other instances, BellSouth will fail to postpone an order despite adequate notice, resulting in either full or partial service outages. Since there are two separate D and N orders involved, BellSouth will frequently postpone or “supp” only the disconnect or the reconnect order leaving customers with an outage.

7. In terms of missed installations, BellSouth's most recent data indicates that it missed *over one-fourth* of the basic two-wire analog loop installs for KMC in Georgia during August, 2001, a decline of 10% as compared to its June performance. BellSouth Georgia also missed 7.7% of the DS-1 orders in August and 33% of the DS-1 installs in June. Other significant results include misses of 11% of the UNE Other Design installs in August, 19% of the two-wire loops with LNP Design, and 25% of the Digital loops < DS-1 and ISDN loop installs in June. Such extremely poor and inconsistent performance makes it quite difficult to compete on a UNE-loop basis. In fact, during the period July, 2000, through April, 2001, BellSouth missed 23% of all UNE appointments it had confirmed for KMC in Georgia. (Source: BellSouth PMAP Website - <http://pmap.bellsouth.com>).

8. BellSouth's loop installation performance is equally deficient in Louisiana. BellSouth missed 41% of the DS-1 installs for KMC in June, 25% of the basic two-wire analog

loop installs in July, 2001, and 28% of the DS-1 installs in August. Like Georgia, BellSouth Louisiana missed 11% of the “UNE Other Design” installs in August, and 27% of the two-wire loops with LNP Design. BellSouth’s Louisiana performance was even worse than BellSouth Georgia’s performance during the period October, 2000, through April 2001, missing 33% of all UNE appointments it confirmed with KMC. (Source: BellSouth PMAP Website - <http://pmap.bellsouth.com>).

9. Even when service is finally turned up, loop outage problems plague our service. Within 30 days of BellSouth turning up the KMC loops, 11% of our analog loops, 8.3% of the analog loops with LNP and 7% of the DS-1 loops failed in August. Prior to that, 9.5% of the analog loops with LNP and 25% of the digital loops < DS-1 failed in July, while 25% of the DS-1 and higher loops failed in June.

10. Outage problems within 30 days of BellSouth turning up KMC loops are equally as problematic in Louisiana. In June 2001, 15.4% of our two-wire analog loops with LNP, 14% of DS-1 loops, and 19% of Digital loops < DS-1 failed within 30 days.

11. Chronic outages are an even bigger concern. BellSouth’s own reported performance numbers indicate that over *two-thirds* of KMC’s DS-1 loops in Georgia that suffered a trouble in August had a prior trouble, while 42% of KMC’s DS-1 loops with trouble in Louisiana in August had a prior trouble. Even worse, in Georgia, *three-fourths* of the DS-1 circuits in July suffered from that same problem, while nearly half of KMC’s DS-1 loops suffered from a prior trouble in Louisiana. Unfortunately, this is not a recent crisis. For the ten month period July, 2000, through April, 2001, the number of trouble reports on KMC circuits in Georgia that had a trouble in the preceding 30 days averaged almost 20%. In Louisiana, almost

one out of every five troubles on KMC UNE circuits during the seven month period from October, 2000, through April, 2001 were on lines with a prior problem.

12. While these KMC-specific numbers are quite bad, they are unfortunately consistent with the poor performance received by CLECs in the aggregate. In April of this year, for example, BellSouth reported the following repeat trouble percentages: 22% for business lines, 48% for Design circuits, 24% for UNE Design, 17% for UNE Non-Design and 23% for Local Trunks. (Source: BellSouth PMAP Website - <http://pmap.bellsouth.com>) In light of this extremely troublesome performance, combined with BellSouth's superior retail numbers, BellSouth cannot claim to be in compliance with the checklist standards for loops.

13. In light of the chronic troubles, several KMC City Directors have now mandated, as standard procedure, the installation of several DS-0 back up circuits for each BellSouth DS-1 so that customers are not completely out of service when the DS-1 circuits inevitably go down.

#### **BELLSOUTH'S HAS FAILED TO ADEQUATELY PROVIDE DIRECTORY LISTINGS FOR KMC'S CUSTOMERS**

14. BellSouth has failed to process the directory listing information for KMC's customers in an accurate, reliable and satisfactory manner, despite the fact that KMC submits that information in accordance with BellSouth's procedures. Compounding the problem, BellSouth routinely fails to provide KMC with adequate time in which to review directory listing proofs.

15. In April, 2001, for example, BellSouth lost all of the KMC directory listing information submitted by KMC's Augusta office for the prior year, including both new and changed listings. Included among these dropped listings were the emergency numbers for the local county government. Since BellSouth failed to provide adequate time to enable KMC to review the directory listing proofs, the problem did not become apparent until two weeks prior to the directory closing. As a result, KMC had only two weeks to manually write up and submit listings for over 300 KMC customers.

16. Just one year ago, in October, 2000, BellSouth changed its procedure for submission of directory listings without adequate notice to KMC. KMC's Savannah, Georgia, office was forced to re-enter all directory listings, necessitating the assignment of three full-time personnel for an entire month.

17. Furthermore, in Georgia BellSouth printed an incorrect number for KMC Telecom in one of the most recent BellSouth phone books. Ironically, the number that BellSouth printed was assigned to a back-up DS-0 line that KMC maintained to compensate for outages in the BellSouth-supplied DS-1.

18. In Louisiana, BellSouth also fails to process the directory listing information for KMC's customers in a timely manner. BellSouth, for example, incorrectly listed a large block of numbers for a medical center in its Shreveport directory. After much discussion between KMC and BellSouth regarding the problem and the impact of such problems on the customer, BellSouth *again* listed the numbers incorrectly for that same customer – listing both the incorrect number published the year before and the correct number.

Affidavit of John D. McLaughlin, Jr.  
KMC Telecom  
October 22, 2001  
CC Docket No. 01-277

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 22, 2001.

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John D. McLaughlin, Jr.  
KMC Telecom, Inc.

**STATE OF GEORGIA     )**  
                                  **)       ss**  
**COUNTY OF FULTON    )**

Subscribed and sworn to before me this \_\_\_\_ day of October, 2001.

Witness my hand and official seal.

My Commission expires: \_\_\_\_\_ .

\_\_\_\_\_  
Notary Public